



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0165]

RIN 1625-AA00

Safety Zones; July 4th Fireworks Displays within the Captain of the Port Zone, Miami FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones during Fourth of July firework events on navigable waterways in the vicinity of Stuart, West Palm Beach, and Miami, Florida. These safety zones are necessary to protect the public from hazards associated with launching fireworks over the navigable waters of the United States. Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the safety zones unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective and will be enforced from 8:30 p.m. until 10:15 p.m. on July 4, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0165]. To view documents mentioned in this

preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail John K. Jennings, Sector Miami Prevention Department, U.S. Coast Guard; telephone (305) 535-4317, email john.k.jennings@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 6, 2014, a Notice of Proposed Rulemaking (NPRM) entitled Safety Zones: July 4th Fireworks Displays within the Captain of the Port Miami Zone, FL was published in the Federal Register (79 FR 25763). We received no comments on the proposed rule. No Public meeting was requested, and none was held.

Under [5 U.S.C. 553\(d\)\(3\)](#), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential hazards associated with launching fireworks over the navigable waters of the United States.

B. Basis and Purpose

(a) The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 33 CFR 1.05-1(g), and 160.5; Department of Homeland Security Delegation No. 0170.1.

(b) The purpose of the rule is to provide for the safety of life on navigable waters of the United States.

C. Discussion of the Final Rule

Multiple fireworks display events are planned for Fourth of July celebrations throughout the Captain of the Port Miami Zone. The fireworks will explode over navigable waters of the United States.

The Coast Guard is establishing three temporary safety zones for fireworks displays on July 4, 2014 on navigable waters of the United States within the Captain of the Port Miami Zone based on the location and/or size of the events. The safety zones are listed below.

The first safety zone is in Stuart, Florida. The safety zone encompasses all waters within a 400 yard radius around the barge from which the fireworks will be launched, located on the St. Lucie River north of City Hall. This safety zone will be enforced from 8:30 p.m. until 9:45 p.m.

The second safety zone is in West Palm Beach, Florida. The safety zone encompasses all waters within a 300 yard radius around the barge from which the fireworks will be launched, located on the Intracoastal Waterway north of the Royal Palm Bridge. This safety zone will be enforced from 9 p.m. until 10:15 p.m.

The third safety zone is located at Bayfront Park, Miami, Florida. The safety zone encompasses all waters within a 400 yard radius around the barge from which the fireworks will be launched, located on the waters of Biscayne Bay east of Bayfront Park. This safety zone will be enforced from 8:30 p.m. until 9:45 p.m.

Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the safety zones unless authorized by the Captain of the Port Miami or a designated representative.

Persons and vessels may request authorization to enter the safety zones by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the safety zones is granted by the

Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or the designated representative. The Coast Guard will provide notice of the safety zones by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) each safety zone will be enforced for less than two hours; (2) although non-participant persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zones without authorization from the Captain of the Port Miami or a designated representative,

they may operate in the surrounding areas during the enforcement period; (3) non-participant persons and vessels may still enter, transit through, anchor in, or remain within the safety zones during the enforcement period if authorized by the Captain of the Port Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zones to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of motor vessels intending to enter, transit through, anchor in, or remain within any of the safety zones described in this regulation during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will

not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). The Coast Guard previously completed a Categorical Exclusion Determination for these temporary safety zones in 2013. The regulation for the 2013 occurrences is similar in all aspects to this year's regulation with the exception of the removal of one event in Deerfield Beach. This display was removed from this year's regulation for lack of need due to low vessel spectatorship. Since this year's event is similar to the 2013 event and regulation, the same Categorical Exclusion Determination is being referenced for this year's regulation. The Categorical Exclusion Determination is available in the docket folder for USCG-2013-0429 at www.regulations.gov. This rule involves establishing safety zones that will be enforced from 8:30 p.m.

until 10:15 p.m. on July 4, 2014. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07-0165 to read as follows:
§ 165.T07-0165 Safety Zones; July 4th Fireworks Displays within the Captain of the Port Miami Zone, FL.

(a) Regulated Areas. The following regulated areas are safety zones. All coordinates are North American Datum 1983.

(1) Stuart, FL. All waters within a 400 yard radius around the barge from which the fireworks will be launched, located on

the St. Lucie River north of City Hall at approximate position 27°12'09"N, 80°14'20"W.

(2) West Palm Beach, FL. All waters within a 300 yard radius around the barge from which the fireworks will be launched, located on the Intracoastal Waterway north of the Royal Palm Bridge at approximate position 26°42'36"N, 80°02'45"W.

(3) Miami, FL. All waters within a 400 yard radius around the barge from which the fireworks will be launched, located on the waters of Biscayne Bay east of Bayfront Park at approximate position 25°46'30"N, 80°10'56"W.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated areas.

(c) Regulations.

(1) Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in or remaining within the safety zones unless authorized by the Captain of the Port Miami or a designated representative.

(2) Non-participant persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zones may

contact the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within a safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the safety zones by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Effective Date. This rule will be enforced from 8:30 p.m. until 10:15 p.m. on July 4, 2014.

Dated: June 11, 2014.

A. J. Gould,
Captain, U.S. Coast Guard,
Captain of the Port Miami.

[FR Doc. 2014-14905 Filed 06/25/2014 at 8:45 am; Publication Date: 06/26/2014]